IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE Nos. 366, 366A, 369, 369A, 370, 370A, 393, 393A, 398 and 398A of 1992
with
INCOME TAX REFERENCE Nos. 216, 217, 218, 220 of 1993
(Fourteen matters)

For Approval and Signature:

HON'BLE MR.JUSTICE M.S.SHAH
and
HON'BLE MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MALLIKA SARABHAI TRUST NO.22

Versus

COMMISSIONER OF INCOME-TAX

Appearance:
1. INCOME TAX REFERENCE No. 366 of 1992
SERVED BY RPAD - (N) for Petitioner No. 1
MR MANISH R BHATT for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE M.S.SHAH
and
HON'BLE MR.JUSTICE A.M.KAPADIA

Date of decision: 25/02/2004

COMMON ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE M.S.SHAH)

This group of references was made at the instance of the assessees. Mr RK Patel, learned counsel appears and states that he has instructions to appear in these matters for the applicant-assessees and that he undertakes to file his vakalatnama within two weeks from today. Mr Manish R Bhatt, learned standing counsel appears for the revenue.

2. At the hearing of the references, the learned counsel for the parties point out that in view of the decision of this Court in CIT vs. Leena Sarabhai (N.CH), (1996) 221 ITR 520 declining to answer the questions referred at the instance of the revenue on the ground that the position in such type of cases is that there is no transfer of capital assets within the meaning of Section 2(47) of the Income-tax Act, 1961, it is not necessary for the Court to answer the questions referred in the present references also.

3. We accordingly decline to answer the questions referred for our opinion in this group of references.

The references accordingly stand disposed of.

(M.S. SHAH, J.)

(A.M. KAPADIA, J.)

zgs/-